

K2CAADROC

Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

19 CR 338 (GHW)

5 MOAZU KROMAH,

6 Defendant.

7 -----x

8 New York, N.Y.
9 February 11, 2020
10:00 a.m.

10 Before:

11 HON. GREGORY H. WOODS,

12 District Judge

13
14 APPEARANCES

15 GEOFFREY S. BERMAN

United States Attorney for the
Southern District of New York

16 JARROD SCHAEFFER

17 SAGAR RAVI

Assistant United States Attorney

18 COURTNEY ANNE CHADWELL

19 Attorney for Defendant Kromah

20
21
22 ALSO PRESENT: TAB F. DRAMMEH, Mandingo Language Interpreter

23
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1 (Case called)

2 MR. SCHAEFFER: Good morning.

3 Jarrod Schaffer and Sagar Ravi, for the government.

4 Good morning, your Honor.

5 THE COURT: Good. Thank you.

6 MS. CHADWELL: Courtney Chadwell, for the defendant.

7 Good morning, your Honor.

8 THE COURT: Thank you. Good morning.

9 Let me note for the record that we're using the
10 services of an interpreter here today.

11 Mr. Kromah, please, let me know if at any point during
12 today's conference you have any difficulty hearing or
13 understanding anything that I or anyone else in the courtroom
14 says.

15 So, counsel, I scheduled this as a status conference.
16 What can you tell me about the status of the case?

17 MR. SCHAEFFER: Thank you, your Honor.

18 Since our last conference we have been discussing with
19 counsel for defendant a potential resolution of the matter.
20 Those discussions continue to be ongoing. However, we think
21 that at this point it would make sense to set a motion
22 schedule.

23 THE COURT: Good. Thank you.

24 So, let me turn to counsel for defendant.

25 What motions do you anticipate may be raised by the

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1 defense in this case?

2 MS. CHADWELL: I'm filling-in on this case, your
3 Honor, but my understanding is that there are going to be
4 motions to suppress and I'm not sure exactly what other
5 motions.

6 THE COURT: Thank you.

7 Do you have a sense of what the evidence is that would
8 be at issue? What's the basis for the motion?

9 MS. CHADWELL: I'm not sure, your Honor.

10 THE COURT: Thank you.

11 Do you expect that this is a motion of the type that
12 will require a hearing?

13 MS. CHADWELL: Yes, I do.

14 THE COURT: Thank you. Good. So, let's do that. I
15 am going to set a motion date. I'd also like to set a trial
16 date.

17 Counsel for the United States, what can you tell me
18 regarding your expectations regarding the duration of the trial
19 in this case?

20 MR. SCHAEFFER: We expect that a trial in this matter
21 would last approximately two weeks, your Honor. I would note,
22 as the Court is aware, that there are additional defendants who
23 have yet to be apprehended in this case. There is also an
24 additional defendant who is currently undergoing extradition
25 proceedings in Senegal. The United States has checked on the

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1 status of those proceedings in recent weeks and, unfortunately,
2 they're at a stage where it simply needs to go through the
3 political process and needs to be considered by political
4 figures in this country. So, we're unable to offer when this
5 process would be concluded at this time. We do expect that the
6 defendant may be extradited from that country. We're just not
7 able to estimate when.

8 THE COURT: Thank you.

9 So, do we know at this point if this could be a
10 question of months or years? It turns in part on when we're
11 able to take this defendant to trial. I don't want to delay
12 this defendant's trial unduly as a result of factors that he
13 cannot control.

14 MR. SCHAEFFER: Yes, your Honor. I don't expect that
15 it would be years. It in all likelihood would be several
16 months. We would proceed with Mr. Kromah separately from the
17 other defendants.

18 THE COURT: Thank you. Good.

19 So, let me hear from the parties.

20 Counsel, let me ask if you can tell me when you would
21 propose to go to trial on this case? I expect that I will be
22 relatively willing to accommodate the parties' desires
23 regarding a trial schedule. Once I establish a trial schedule
24 however, that will be a firm date. So, if you'd like to
25 confer, counsel, please do. Then I'd like to hear the parties'

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1 prospective proposals regarding a trial date.

2 (Pause)

3 THE COURT: Counsel, have you had the opportunity to
4 confer regarding potential dates for trial in this matter?

5 MR. SCHAEFFER: We have, your Honor.

6 THE COURT: What would you propose?

7 MR. SCHAEFFER: Is the Court is amenable, we would
8 propose a trial beginning July 27th and a motion schedule where
9 defense motions would be filed April 15th and the government's
10 response on May 6th.

11 THE COURT: Thank you very much.

12 I am happy to adopt the parties' proposal that we
13 commence trial on July 27th with the expectation that the trial
14 will last two weeks.

15 Now, counsel, let me just confirm that in proposing
16 the trial date of July 27th that each of you have reviewed your
17 calendars and that you are sure that there are no conflicts or
18 competing matters that would effect your preparation for trial
19 on that date and associated pretrial matters.

20 Is that right, counsel for the United States?

21 MR. SCHAEFFER: Yes, your Honor.

22 THE COURT: Thank you.

23 Counsel for defendant?

24 MS. CHADWELL: Yes, your Honor.

25 THE COURT: Good. Thank you very much.

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1 So, I am going to set trial to begin here on
2 July 27th. Let me just say very briefly a few words about that
3 trial date. That is a firm date. It's not going to change.
4 To that end, let me just note something for the benefit of
5 Mr. Kromah.

6 If any circumstances arise and you want or need to
7 change counsel, for example, if you have retained counsel, that
8 you become eligible for appointed counsel or have appointed
9 counsel but one to retain counsel or for any reason, it's
10 absolutely crucial that you raise that as soon as possible.
11 I'm not saying that I expect that you will or should want to do
12 that. But I just want to raise this issue with you now.

13 I do so because a lawyer needs adequate time to
14 prepare for trial and the trial date that I've just established
15 is not going to change. So, if you were to have an application
16 to change counsel, it would be in your interest to raise that
17 as promptly as possible. If you want to wait until just before
18 the trial date, I might not grant your application or I might
19 grant your application but then that person would have less
20 time to prepare for trial because, again, the trial date is not
21 going to change. If you choose to replace your counsel late
22 and shortly before the trial. So, do not expect that by
23 changing counsel you you will obtain an extension of this trial
24 date. It is a firm date.

25 So, counsel, I will issue an order later today that

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1 will establish deadlines for briefing of any motions. I'd like
2 to ask about the proposal that the motions be due by April 15
3 however. Why do you propose that? My inclination is to
4 establish an earlier date understanding that this motion that
5 may require some kind of an evidentiary hearing and timetable
6 that the parties have proposed would have the motion fully
7 briefed presumably sometime in mid May. If I were to have a
8 hearing date that would be at the end of May and I would need
9 to issue a decision substantially before trial so that the
10 parties would know what my decision was. It's not clear to me
11 that the schedule proposed which has initial briefing not due
12 until April 15th will permit that. As a result, my inclination
13 is to establish a much faster turnaround for the defendant's
14 motion, namely, one in which the defendant's motion would be
15 due approximately a month prior to the date that the parties
16 have proposed here.

17 Counsel, why is it that you have proposed that
18 defendant's motion not be filed until April 15th? I note that
19 discovery has long since been completed. Why would
20 approximately a month and a week from today not be sufficient
21 time for the defense to prepare and file any motion?

22 MS. CHADWELL: We could probably do the end of March
23 or mid March, your Honor. I just chose mid April because I
24 know that the attorney who will be handling the motions is out
25 at the beginning of April.

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1 THE COURT: Thank you.

2 MS. CHADWELL: I'd rather give him more time than less
3 time.

4 THE COURT: Thank you. I'll set a schedule when I
5 return to chambers. I expect that that schedule will have the
6 defense motions due sometime in mid March. I will retain the
7 proposed gap between the defendant's motions and the
8 government's opposition and require that any reply by the
9 defense be filed no later than a week following the
10 government's opposition. I'll set a hearing date in that
11 order. I'll also establish deadlines for pretrial submissions
12 as a date for final pretrial conference in this case.

13 While I have you here let me just say a few brief
14 words about the pretrial submissions that are required under my
15 individual rules of practice. They're relatively
16 straightforward. The only thing that I want to highlight here
17 is that the parties may choose if you believe it would be
18 helpful and efficient to present the Court with a set of --
19 I'll call it joint jury charges -- and I'm not expecting that
20 the parties would agree on everything. Rather, I would expect
21 that the government would do a first draft of all of the
22 charges and then that rather than submitting to me a dueling
23 set of charges that the defense would instead make specific
24 comments on the government's charges. In the same way that the
25 government as charges will, I expect be supported by

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1 invitations pointing me to relevant precedent, I would expect
2 that any objections to or different suggestions by the defense
3 would similarly be supported by references to relevant
4 precedent. My hope would be that the defense would also
5 provide me with specific alternative language with respect to
6 any portion of the charge to which they object.

7 I'm not ordering that you proceed in this way. I'm
8 simply requesting that the parties confer about the prospect of
9 proceeding in that way. It's substantially more efficient for
10 me to look at such a document rather than looking at two fully
11 competing sets of charges. Please be reassured that if we were
12 to proceed in that way, I would not defer in any way to the
13 government's proposed charges merely because they would be in
14 the main line text. Rather, I would evaluate each of the
15 parties' proposals on the merits based on the substance of the
16 proposal and the precedent that supports it. So, please, do
17 confer about that again. It's more efficient for me and it may
18 also be more efficient as a whole for all of the parties.

19 Good. So, counsel, you should see an order later
20 today establishing that schedule.

21 Counsel, is there anything else that we should talk
22 about here before we come to the speedy trial clock?

23 MR. SCHAEFFER: No, your Honor.

24 MS. CHADWELL: No, your Honor.

25 THE COURT: Good. Thank you very much.

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1 Counsel for the United States, do you have an
2 application?

3 MR. SCHAEFFER: Yes, your Honor. Given that the
4 parties are continuing their pretrial discussions and their
5 disposition of the matter may be possible and the fact that
6 defense counsel needs time to begin preparing any motions, we
7 would request that speedy trial time be excluded through the
8 date of trial.

9 THE COURT: Thank you.

10 Counsel for defendant?

11 MS. CHADWELL: Defendant has no problem with that.

12 THE COURT: Good. Thank you very much.

13 I will exclude time from today until July 27, 2020.

14 After balancing the factors specified in 18 U.S.C.
15 Section 3161(H (7), I find that the ends of justice served by
16 excluding such time, outweigh the best interests of the public
17 and the defendant in a speedy trial and because it will allow
18 time for the defendant to prepare any motions and time for the
19 parties to negotiate a pretrial resolution of this case, as
20 well as to prepare for trial itself.

21 Thank you very much, counsel. Anything else that we
22 need to address before we adjourn?

23 MR. SCHAEFFER: No. Thank you, your Honor.

24 MS. CHADWELL: No, your Honor.

25 THE COURT: Thank you very much.

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1 This proceeding is adjourned.

2 (Adjourned)

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